

CLEAR SPRINGS FOODS, INC.
CLEAR SPRINGS INTERIM GOALS AND EXPECTATIONS
Eastern Snake Plain Aquifer Working Group
Expanded Natural Resources Interim Committee
June 24, 2004

Clear Springs Interim Committee Goals

1. The overarching goal should be to bring the ESPA and the Snake River back into balance by ensuring that groundwater pumping withdrawals are equal to or less than natural and incidental recharge to the system. An appropriate expression of that goal might be:
 - A. The development of a program of water rights administration and management, consistent with Idaho's prior appropriation doctrine, which will ensure the long-term sustainability and restoration of the ESPA and the Snake River such that depletions from junior groundwater pumping do not reduce natural discharges from the aquifer to springs and surface supplies.
2. Take immediate (Spring of 2005) steps and stem the decline of key indicator springs, ground water levels and river reach gains through a net reduction in junior ground water depletions. Indicator springs and river reach gains should not fall below 2004 levels. Steps include:
 - A. Recharge projects.
 - B. Conversions to surface water.
 - C. Reduction in depletions (pumping).
3. To provide *short-term* relief while actively pursuing intermediate and long-term goals:
 - A. Implement infrastructure improvements or changes to existing systems, or otherwise develop mechanisms, to enable the delivery of mitigation water to those senior water rights impacted by junior groundwater depletions.
 - B. Where mitigation water is not available, provide mitigation dollars to enable water right holders to remain viable until intermediate and long-term goals take effect.
 - C. Delivery of water through actions otherwise not covered under 1.A., where shortages would result in serious reduction or curtailment of business viability.

4. To provide *intermediate and timely* stabilization of the source of surface (spring) water and groundwater rights throughout the Snake River reach from King Hill to Shelley acknowledging the extent of cumulative depletions caused by groundwater withdrawals from the Eastern Snake Plain Aquifer. Management actions taken shall be in recognition of the depletions identified unless agreed to by all parties. There are two primary tools available for achieving the intermediate stabilization and long-term sustainability of the ESPA and connected surface sources: curtailment of the use of water under junior water rights through priority administration, and providing the legal, technical and policy framework necessary to allow junior water rights holders to continue withdrawals by providing mitigation or replacement water that will prevent injury to senior water rights. Any measures implemented to achieve the stabilization and long-term sustainability must be consistent with the prior appropriation doctrine – meaning that all diversions from, or to, the ESPA must be in priority to other existing water rights or exercised in such a manner that all out-of-priority depletions are fully replaced or mitigated for in order to protect senior water rights.

- A. To appropriately monitor stabilization efforts, the following should be implemented at key target springs. [Birch Creek Springs, White Springs, Malad Springs, Hoagland Tunnel, Curren Tunnel, Len Lewis Springs, Thousand Springs, Box Canyon Creek, Briggs Springs, Clear Lakes Springs, Niagara Springs, Crystal Springs, Blue Lake Springs/Alpheus Creek, Devils Corral Springs, Gifford Springs, Cold Springs, Bonanza Bar Springs, Danielson Springs, Crystal Springs (Boone Creek), Papoose Springs, Spring Creek, Indian Springs]:

1. Appropriate measuring devices must be timely (2005) installed and monitoring program in place.
2. Recorded measurements to be reported to all stakeholders timely (monthly).
3. Measurable discharge range, not less than the 2004 levels and must show improvement within period.
4. Stabilization should be achieved within 3-5 yrs.

- B. To appropriately monitor stabilization efforts of the entire Eastern Snake Plain Aquifer, the following should be implemented:

1. Identification of observation wells and definitive monitoring program at critical locations. [above target springs, within WDs 110, 120, 130 and the A & B area]
2. Identifiable timeframe [2005].

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3. Recorded measurements to be reported to all stakeholders timely (monthly).
 4. Groundwater levels [not less than 2004 levels] where available or latest available measurements. If 2001 GW levels are the same as 1980 levels would you not expect the spring levels to be the same?
- C. To appropriately monitor stabilization efforts of the Snake River reach gains that have suffered declines resulting from groundwater depletions caused by pumping, the following should be implemented:
1. Identification of reaches [Shelley to Neely, Neely to Minidoka, Minidoka to Milner, Milner to King Hill, and sub-reaches identified in the recalibrated groundwater model]
 2. Adequate measuring devices, monitoring program, and water rights accounting for the entire reach identified in C.1. above.
5. In an effort to establish reasonable *long-term* restoration objectives for Aquifer levels, Spring flows and Snake River reach gains identified in Part 4 above, the following should be implemented:
- A. Using the technical tools (model) and such mitigation actions as are reasonably available (managed recharge, curtailment, conversions, etc.), identify the reasonable levels of restoration that might be expected over the long-term. Such as:
 1. Key target springs flow discharges.
 2. Aquifer water levels.
 3. Snake River reach gains.
 - B. Identifiable timeframe, 10-15 years, predicated on expected level of long-term restoration.
6. Identifiable funding mechanisms to assist attaining stabilization and restoration. Such as:
- A. State, Federal, Private funding sources.

Clear Springs Expectations

1. **State and Interim Committee re-affirm the protections afforded water right holders through the Prior Appropriation Doctrine, State law and Idaho State Constitution. Further to affirm that aquaculture water rights are not subordinate to agriculture irrigation or hydropower rights and affirmation of the SRBA process and protection of decreed water rights.**
2. **State commitment to bring the ESPA and the Snake River back into balance and bring certainty to the current and future economic fabric of water users and related interests (people) in the region. Without such certainty, businesses, investors and an economy that relies upon decreed water rights and the source may not continue to exist.**
3. **Immediate and meaningful action commencing March 2005 that begins to correct the imbalance.**
4. **Clear Springs will need to see a plan that is supportable and based on best science (water model) that forecasts goal achievement.**
5. **Progress must be measured by results (indicator spring flow, groundwater levels & Snake River reach gains).**

Summary

The question has been posed to Clear Springs Foods, Inc., "What does it need to continue working beyond March of 2005 to avoid litigation?" This paper is prepared to answer that question.

Critical to any long-term solution is recognition of the principles recited in the Agreement, that is recognition that the Prior Appropriation Doctrine and the Idaho law controls administration of water rights. Those principles can not be disturbed without Constitutional ramifications and taking issues.

This is a priority issue – not a surface water/groundwater issue. Clearly, there must be a strong commitment by all parties for there to be any chance of success. We must get beyond blame and move toward developing viable solutions together if we are to be successful.